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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,567	12/22/2000	Mark Rindsberg	XMRD:002	4309

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EXAMINER

LIPMAN, JACOB

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 06/17/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/747,567

Applicant(s)

RINDSBERG, MARK

Examiner

Jacob Lipman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 4/09/2001 has been considered by the examiner.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 98 in figure 3. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 10, 30, and 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Regarding claims 10, 30, and 50, the phrase "normally" renders the claims indefinite because it is unclear what exceptions exist to the norm.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ireton et al., US patent number 5,901,225, in view of Green, US patent number 6,247,168.

With regard to claims 1, 10, 21, 30, 41, and 50, Ireton discloses a method for securely installing patch data (column 1 lines 6-8) in a device having a processor, program memory, and patch memory (column 4 lines 24-27) including encrypting clear patch data using a key (column 10 lines 40-43), storing the encrypted patch into data memory (column 3 lines 52-53) retrieving the patch and decrypting it using the key (column 10 lines 43-44), and loading it into patch memory and executing it (column 3 lines 53-58). Ireton, however, does not disclose how the patch is downloaded to the device. Green discloses a method of securely downloading patch data in a device (column 11 lines 40-41) including, transmitting the patch to the device over a non-secure channel in encrypted form (column 11 lines 31-33), and receiving the patch on the device and decrypting it (column 11 lines 33-39), thus verifying it's integrity. It would have been obvious to one of ordinary skill in the art to implement Green's encrypted

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patch downloading to Ireton's Patch storage system for preventing unauthorized updates (Green column 11 lines 27-29).

With regard to claims 2-7, 22-27, and 42-47, the examiner takes official notice that download are often sent by satellites or terrestrial repeaters. It would have been obvious to one of ordinary skill in the art to use the above-described method in a satellite or terrestrial repeater system to prevent unauthorized updates.

With regard to claims 8, 9, 28, 29, 48, and 49, Green discloses the server can control whether to allow all devices, or only a portion to decrypt the patch (column 12 lines 9-21).

With regard to claims 11-14, 31-34, and 51-54, Ireton discloses the external memory can be RAM or NVM (column 5 lines 20-25).

With regard to claims 15, 16, 35, 36, 55, and 56, Green discloses that the patch is only performed if it is verified (column 12 lines 7-8). The examiner takes official notice that systems often delete viruses and reboot when they are detected. It would have been obvious to one of ordinary skill in the art to treat an unverified patch as a possible virus and delete it and reboot for increased security.

With regard to claims 17-20, 37-40, and 57-60, the examiner takes official notice that keys are often hard coded into computer devices. It would have been obvious to one of ordinary skill in the art to use hard-coded keys in the above-described method to increase security.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Lipman whose telephone number is 703-305-0716. The examiner can normally be reached on 7:00 - 4:00 (M-Th).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 703-308-4789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL


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